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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11 LEONARD A. HASKINS,

No. C 08-02226 CW (PR)

12 Plaintiff,

13 v.  
14 ROBERT AYERS, JR.,  
15 Defendants.

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL AND  
GRANTING PLAINTIFF AN EXTENSION  
OF TIME TO FILE OPPOSITION TO  
MOTION FOR SUMMARY JUDGMENT

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17 Plaintiff requests the appointment of counsel to represent him  
18 in this action.

19 There is no constitutional right to counsel in a civil case  
20 unless an indigent litigant may lose his physical liberty if he  
21 loses the litigation. See Lassiter v. Dep't of Social Services,  
22 452 U.S. 18, 25 (1981); Rand v. Rowland, 113 F.3d 1520, 1525 (9th  
23 Cir. 1997) (no constitutional right to counsel in  
24 § 1983 action), withdrawn in part on other grounds on reh'q en  
25 banc, 154 F.3d 952 (9th Cir. 1998) (en banc). The court may ask  
26 counsel to represent an indigent litigant under 28 U.S.C. § 1915  
27 only in "exceptional circumstances," the determination of which  
28 requires an evaluation of both (1) the likelihood of success on the

1 merits, and (2) the ability of the plaintiff to articulate his  
2 claims pro se in light of the complexity of the legal issues  
3 involved. See id. at 1525; Terrell v. Brewer, 935 F.2d 1015, 1017  
4 (9th Cir. 1991); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th  
5 Cir. 1986). Both of these factors must be viewed together before  
6 reaching a decision on a request for counsel under § 1915. See id.

7 The Court finds that exceptional circumstances entitling  
8 Plaintiff to court appointed counsel do not exist. The likelihood  
9 of Plaintiff's success on the merits cannot be ascertained at this  
10 point in the proceedings, and the legal issues are not complex.

11 Accordingly, Plaintiff's request is DENIED.

12 Plaintiff's opposition to Defendants' motion to dismiss is  
13 presently overdue. The Court GRANTS Plaintiff an extension of time  
14 in which to file his opposition to Defendants' motion to dismiss.  
15 The time in which Plaintiff may file his opposition to Defendants'  
16 motion to dismiss will be extended up to and including thirty (30)  
17 days from the date of this Order.

18 If Defendants wish to file a reply brief, they shall do so no  
19 later than fifteen (15) days after the date Plaintiff's opposition  
20 is filed.

21 IT IS SO ORDERED.

22 Dated: 10/6/2010

  
CLAUDIA WILKEN

23 UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LEONARD A HASKINS,

Plaintiff,

Case Number: CV08-02226 CW

V.

ROBERT AYERS JR et al,

Defendant.

## **CERTIFICATE OF SERVICE**

7 ROBERT AYERS JR et al,  
8 Defendant.  
\_\_\_\_\_  
/

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

11 That on October 6, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located  
in the Clerk's office.

15 Leonard A. Haskins  
800 Main St., Apt. #207  
16 Redwood City, CA 94063

17 | Dated: October 6, 2010

Richard W. Wiekling, Clerk  
By: Nikki Riley, Deputy Clerk